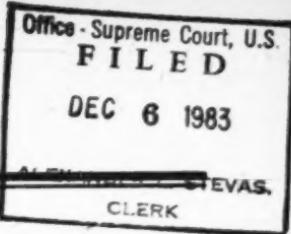


83-934

NO. _____



IN THE
Supreme Court of the United States

OCTOBER TERM, 1983

VICTOR GREGER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

OSCAR B. GOODMAN, ESQ.

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the conviction on Count II must be reversed for the reason that the Defendant could not aid and assist an innocent person to file a false income tax return, pursuant to 26 U.S.C. § 7206(2).
 2. Whether the conviction in Counts IV through VIII charging Interference with Commerce by Threats or Violence in violation of Title 18 U.S.C. § 1951 must be reversed for the reason that the evidence was insufficient to show extortion by the Defendant which effected interstate commerce.
- ...

TABLE OF CONTENTS

	<i>Page</i>
QUESTIONS PRESENTED FOR REVIEW	i
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES.....	iii
OPINION BELOW.....	1
JURISDICTION	2
STATUTORY PROVISIONS INVOLVED.....	2
STATEMENT OF THE CASE.....	4
REASONS FOR GRANTING THE WRIT.....	5
I. THE CONVICTION ON COUNT II MUST BE REVERSED FOR THE REASON THAT THE DEFENDANT COULD NOT AID AND ASSIST AN INNOCENT PERSON TO FILE A FALSE INCOME TAX RE- TURN PURSUANT TO 26 U.S.C. § 7602(2).....	5
II. THE CONVICTION IN COUNTS IV THROUGH VIII CHARGING INTER- FERENCE WITH COMMERCE BY THREATS OR VIOLENCE IN VIOLATION OF TITLE 18 U.S.C. § 1951 MUST BE REVERSED FOR THE REASON THAT THE EVIDENCE WAS INSUFFICIENT TO SHOW EXTORTION BY THE DEFEN- DANT WHICH EFFECTED INTERSTATE COMMERCE	7
CONCLUSION	9
CERTIFICATE OF MAILING.....	10
APPENDIX A.....	1a
APPENDIX B	1b
APPENDIX C	1c

TABLE OF AUTHORITIES

<i>Cases</i>	<i>Page</i>
<i>Cosgrove vs. United States,</i> 224 F.2d 146 (9th Cir., 1954)	6,5a
<i>Glaser vs. United States,</i> 315 U.S. 60, 80 (1942)	6a
<i>Marshall vs. United States,</i> 409 F.2d 925, 927 (9th Cir. 1969)	4a
<i>Sealfon vs. United States,</i> 332 U.S. 575 (1948)	5a
<i>Strangway vs. United States,</i> 312 F.2d 283 (9th Cir.), cert. denied, 373 U.S. 903 (1963).	5a
<i>United States vs. Addonizio,</i> 451 F.2d 49, 59 (3d Cir.) cert. denied, 405 U.S. 936 (1972)	6a
<i>United States vs. Brecht,</i> 540 F.2d 45 (2d Cir. 1976), cert. denied, 429 U.S. 1123 (1977)	6a,7a
<i>United States vs. Crum,</i> 529 F.2d 1380, 1382 (9th Cir. 1976)	6,4a
<i>United States vs. Duhon,</i> 565 F.2d 345, 351 (5th Cir., 1978)	7,6a
<i>United States vs. French,</i> 628 F.2d 1069 (8th Cir.) cert. denied, 449 U.S. 956 (1980)	6a,7a
<i>United States vs. Furey,</i> 491 F. Supp. 1048, 1062-63 (ED. Pa.), aff'd, 636 F.2d 1211 (3rd Cir. 1980), cert. denied, 451 U.S. 913 (1981)	8,6a,7a
<i>United States vs. Hyde,</i> 448 F.2d 815, 833 (5th Cir., 1971)	7

<i>United States vs. Larson,</i>	
507 F.2d 385, 387 (9th Cir., 1974)	4a
<i>United States vs. Margiotta,</i>	
688 F.2d 108, 133 (2d Cir. 1982), cert. denied, 103 S. Ct. 1891 (1983)	7a
<i>United States Rabbitt,</i>	
583 F.2d 1014 (8th Cir., 1978).	8
<i>United States vs. Rodriguez,</i>	
546, F.2d 302, 306 (9th Cir. 1976)	6a
<i>United States vs. Segna</i>	
555 F.2d 226, 231 (9th Cir. 1977)	4a
<i>United States vs. Siegel,</i>	
472 F. Supp. 440, 444 (N.D.ILL. 1979)	5a
<i>United States vs. Wolfson,</i>	
573 F.2d 216 (5th Cir., 1978)	5-6,4a
<i>Statutes</i>	
18 USC §2.....	5,3a,4a
18 USC §1951	i,3,7,1a-2a
18 USC §1951(b)(2).....	6a
26 USC §7206(1)	4,2a
26 USC §7206(2)	<i>passim</i>
28 USC §1254(1)	2
<i>Miscellaneous</i>	
Federal Rules of Criminal Procedure 52(b)	2-3
Hobbs Act	1a,6a

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**IN THE
Supreme Court of the United States**

OCTOBER TERM, 1983

NO. _____

VICTOR GREGER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Petitioner, VICTOR GREGER, respectfully prays that a Writ of Certiorari issue to review the opinion of the United States Court of Appeals for the Ninth Circuit entered in this proceeding on September 26, 1983.

OPINION BELOW

The opinion of the United States Court of Appeals for the Ninth Circuit was filed on September 26, 1983. The opinion is reproduced herein as Appendix "A".

JURISDICTION

The Court's jurisdiction is invoked under 28 U.S.C. § 1254(1). On October 24, 1983, the United States District Court for the District of Nevada issued its order on mandate noting that the Ninth Circuit Court of Appeals had issued its mandate on September 26, 1983. A copy of the Order on Mandate is reproduced herein as Appendix "B". Additionally, on November 10, 1983, the United States District Court for the District of Nevada issued a further order directing the surrender of the Petitioner on December 8, 1983. This Order is reproduced herein as Appendix "C". At the current time, a motion to stay the surrender date pending Petition for Writ of Certiorari is pending before the United States District Court for the District of Nevada.

STATUTORY PROVISIONS INVOLVED

Title 26 U.S.C. § 7206(2) pertaining to aiding and assisting in a filing of a false income tax return provides, as follows:

"(2) *Aid or Assistance* - Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim or document."

Federal Rules of Criminal Procedure 52(b) provides, as follows:

"Plain Error. Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court."

Title 18 United States Code, Section 1951 provides, as follows:

"Interference With Commerce By Threats Or Violence. (a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

(b) As used in this section—

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under the color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, a Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c) This section shall not be construed to repeal, modify or affect section 17 of Title 15, sections 52, 101-

115, 151-166 of Title 29 or sections 151-188 of Title 45."

STATEMENT OF THE CASE

The Defendant was originally charged by way of indictment in two counts in violation of Title 26 U.S.C. § 7206(1), filing false tax returns, and in one count with a violation of Title 26 U.S.C. § 7206(2), aiding and assisting in the filing of false tax returns as well as five counts of interfering with commerce where the movement of articles and goods in commerce by means of extortion. A trial eventually occurred and at the conclusion of same the Defendant was found guilty on all counts. He was eventually sentenced to incarceration and to a substantial fine.

The basis of all counts of the indictment pertained to allegations against the Defendant that while employed in a position of Food and Beverage Director at a local hotel being the Stardust Hotel in Las Vegas, Nevada, the Defendant wrongfully used fear of economic harm to various local purveyors of goods by preventing the selling of their food stuff to various hotels until their representatives agreed to and caused to be made, payments to the Defendant of money. The evidence at the trial showed that the Defendant did not sign the income tax return which is the subject matter of Count II of the indictment but that his preparer, one WALTER HANKIN, indicated that he had received the figures to prepare the income tax return and that he had specifically signed the 1975 return.

Count IV alleged extortion from one SCHULMAN MEATS by the wrongful use of fear of economic harm in Las Vegas. SCHULMAN purchased meat out of state and had it

trucked to Las Vegas, Nevada. Eventually, a representative of SCHULMAN was told that the Stardust Hotel, where the Defendant worked, would buy meat from SCHULMAN if the Defendant could receive a "kickback". SCHULMAN agreed with the plan and testified that the Stardust Hotel was a large account and that it allowed him to buy additional meats at a lower price. Count V, like Count IV, dealt with a different purveyor, but a representative of that company indicated that his company brought products from out of state for use and consumption in the State of Nevada. Similar testimony was obtained in reference to Count VI through VIII.

REASONS FOR GRANTING THE WRIT

I.

THE CONVICTION ON COUNT II MUST BE REVERSED FOR THE REASON THAT THE DEFENDANT COULD NOT AID AND ASSIST AN INNOCENT PERSON TO FILE A FALSE INCOME TAX RETURN PURSUANT TO 26 U.S.C. § 7602(2).

The record is clear that the tax preparer in the instant case was innocent of any wrongdoing in receiving, preparing or submitting the 1975 income tax return. It was argued below that the Defendant could not legally aid and assist an innocent and non-participating party in the filing of a false federal income tax return. Again, it was not MR. GREGER who had signed the return, yet the Court below construed the language of Section 7206(2) as being broader in scope than Title 18 U.S.C. § 2. Relying in part upon *United States v. Wolfson*,

573 F.2d 216 (5th Cir., 1978) and *United States v. Crum*, 529 F.2d 1380 (9th Cir., 1976). Basically what the Court held was that Section 7206(2) applies to one who supplies false information which he knows will be included in a tax return even if he is not the preparer of a return and even if the preparer is not aware of the falsity. This pronouncement seems inconsistent with the Court's prior pronouncement in *Cosgrove v. United States*, 224 F.2d 146 (9th Cir., 1954), a case involving the wilful aiding and assisting in and procuring, counseling and advising the preparation and presentation of false and fraudulent estate tax return. In that case the Court decided that the words "aid", "assist", "procure", "counsel", and "advise" are identical and substantially equivalent to the words "aid and abet". The Court further stated:

"The only exception is that the taxpayer need not share the lawful intent in order to make the other party an aider and abettor. By necessary implication, all others must harbor such intent if the statute is to apply. . . in other words, the section in question presupposes that with this one exception, the person who is aided must concur in the 'falsity or fraud' just as every conspirator must share in the lawful intent. In this respect the parallelism between aiding and abetting on the one hand and conspiracy on the other is complete."

It is further suggested that the theory of the trial court to sua sponte prepare an appropriate jury instruction in reference to the aiding and abetting provision constituted "plain air" and that as such a conviction on this count must be reversed.

II.

**THE CONVICTION IN COUNTS IV
THROUGH VIII CHARGING INTER-
FERENCE WITH COMMERCE BY
THREATS OR VIOLENCE IN VIOLATION
OF TITLE 18 U.S.C. §1951 MUST BE
REVERSED FOR THE REASON THAT
THE EVIDENCE WAS INSUFFICIENT TO
SHOW EXTORTION BY THE DEFEN-
DANT WHICH EFFECTED INTERSTATE
COMMERCE.**

In reference to each count the facts adduced in the case show that it was the Defendant who was approached each and every time at his place of employment by entrepreneurs eager to engage in a "kickback" scheme in order to line their own pockets. There is a distinction between bribery and extortion and as set forth in *United States v. Hyde*, 448 F.2d 815, 833 (5th Cir., 1971):

"It is the wrongful use of an otherwise valid power that convert dutiful action into extortion. If the purpose and effect are to intimidate others, forcing them to pay, the action constitutes extortion. . . the distinction from bribery is therefore the initiative and purpose on the part of the official and the fear and lack of voluntariness on the part of the victim."

In *United States v. Duhon*, 565 F.2d 345, 351 (5th Cir., 1978), the Court held:

"The crucial difference is whether Defendants intended to induce the \$5,000 payment by exploiting Buckholtz's fear of economic loss. If not, then Defendants merely accepted a bribe which does not constitute extortion or violate the Hobbs Act. . . The Defendant must intend to exploit the fear of the victim. . ."

It can thus be ascertained from the above citations that the Defendant therein did not take the initiative including within the case-at-bar with any of the purveyors. They sought out the Defendant and actually agreed to a kickback scheme advantageous to both if the record is viewed in the light most favorable to the Government. Perhaps most importantly, however, there was no direct fear of economic harm. Finally, the lack of voluntariness on the part of the victim in the case-at-bar was non-existent for each of the alleged victims desired the affiliation with the hotel and with each victim alleging that a rebate or kickback were routinely required throughout Las Vegas. It is submitted therefore that what was presented to the Court was not a case of extortion but at most a case of bribery or soliciting a bribe. The Court should also take into consideration the fact that each of the purveyors testified that their businesses were only helped not hurt by their affiliation with the Defendant. In *United States v. Furey*, 491 F.Supp. 1048 (ED Pa., 1980) the Court found in part that:

" . . . If the victim initiated the contact with the alleged extorter and induced payments to be made to the extorter, this would constitute bribery on the part of the victim. . . ."

Further, in *United States Rabbitt*, 583 F.2d 1014 (8th Cir 1978), the Court found that:

"If the resources of a business which effects interstate commerce are depleted and diminished as a result of extortion then interstate commerce is effected. . . ."

Clearly there was no business depletion or diminishment in the instant case.

The thrust of the Appellate Court's opinion focused on the intention of the Defendant to induce payments through the use of threats or the exploitation of fears in the victim and the reasonable state of mind of the victim based upon his words,

actions and perceptions. Again, the instant case is not one where the purveyors had the contract and then were "blackmailed" into making payments in order to maintain the contract, but it was one where the purveyors went to the Defendant and at best a bribery occurred which the purveyors compiled with.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Petition for Writ of Certiorari should be granted.

Respectfully Submitted,

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Attorney for Petitioner

CERTIFICATE OF MAILING

I, the undersigned, do hereby certify that a true and correct copy of the above and foregoing petition for a writ of certiorari was duly mailed to counsel of record, Honorable Rex Lee, U.S. Solicitor General, Department of Justice, Room 5614, Ninth & Pennsylvania Avenue, N.W., Washington, D.C. 20530, with postage prepaid thereon.

/s/ Oscar B. Goodman, ESQ.

Oscar B. Goodman, ESQ.

Appendix "A"**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,)	No. 82-1550
Plaintiff-Appellee,)	D.C. No.
)	CR-R 80-47,
v.)	ECR
)	
)	OPINION
VICTOR GREGER,)	
)	
Defendant-Appellant.)	
)	

Appeal from the United States District Court
for the District of Nevada

Edward C. Reed, Jr., District Judge, Presiding

Argued and submitted May 13, 1983

Before: BROWNING, PECK*, and ALARCON,
Circuit Judges PECK, Circuit Judge:

Appellant Victor Greger was convicted of falsely preparing and assisting in the preparation of federal income tax returns and of extortion in violation of the Hobbs Act, 18 U.S.C.

*Honorable John W. Peck, Senior United States Circuit Judge for the Sixth Circuit, sitting by designation.

§ 1951 *et seq.* The indictment charged Greger with willfully and knowingly underreporting his income in federal tax returns covering 1974, 1975, and 1976. Counts I and III of an eight-count indictment charged Greger with falsely preparing his 1974 and 1976 returns in violation of 26 U.S.C. § 7206(1). Count II charged Greger with knowingly supplying false information used in the preparation of his 1975 return.¹ The remaining five counts charged Greger with extortion resulting from his actions as food and beverage director for the Argent Corporation, owner of three fashionable Las Vegas hotels and casinos.

82-1550

Greger appeals the judgment of conviction under Count II, involving his assistance in the preparation of the 1975 tax return, and the judgment of conviction under each of the five extortion charges. After careful review, we affirm.

In 1973 Greger became food and beverage director for the Argent Corporation, owner and operator of the Stardust, Fremont, and Hacienda Hotels and Casinos. Greger was in charge of selecting and contracting with various suppliers to provide the Stardust Hotel with food and beverage products. Between 1973 and 1976 he contracted with a number of purveyors. The agreements were frequently accompanied by questionable dealings, however. Before agreeing to purchase foodstuffs and beverages from five purveyors, enumerated at trial, Greger demanded that certain sums be paid to him. Specifically, before agreeing to contract with Schulman Meats and Provisions, Incorporated, Best Sausage Company

¹The difference in charges stems from the fact that Greger signed his 1974 and 1976 returns, but failed to subscribe his 1975 return. The 1975 return was signed by his accountant as preparer, with no knowledge of the information's inaccuracy.

and Holiday Meats and Provision, he demanded that a percentage of the sale price be paid directly to him. Highland Dairy Company was told to rebate 10% of its sale price to do business with him. Lux Seafoods, Incorporated was required to pay 2% to 3% of its gross sale price as well as various other sums. Each purveyor at first hesitated, but then reluctantly agreed to such terms. Payments were generally made monthly in cash or by specially directed check. Each purveyor was continually aware that failure to make a payment would most likely result in the termination of the lucrative contract with Argent Corporation and that Greger had exclusive power to terminate at any time. Each purveyor testified at trial that the termination of the Argent Corporation account would substantially injure its business.

After a seven-day jury trial Greger was found guilty on all eight counts of the indictment. The district judge sentenced Greger to concurrent terms of eighteen months imprisonment and a fine of \$3,000 for each tax conviction and to concurrent terms of four years imprisonment and a fine of \$4,000 for each Hobbs Act conviction. The two sentences are to run consecutively.

On appeal, though the question was not raised at trial, Greger initially argues his conviction for falsely assisting in the preparation of his 1975 tax return should be reversed since 26 U.S.C. § 7206(2) does not proscribe such conduct. Greger urges that since this statute is identical in scope to the traditional criminal aider or abettor provision of 18 U.S.C. § 2, it must be similarly construed. Since the only other person involved in the preparation of the return, his accountant, was unaware that information supplied by Greger was false, Greger argues that he could not be convicted of aiding or abetting absent some proof of a principal actor. Greger contends that even though the matter was not raised at trial this

court should consider the question plain error and reverse his conviction.

The rule is well settled that a reviewing court will not generally consider a matter not first raised in the trial court. *United States v. Larson*, 507 F.2d 385, 387 (9th Cir. 1974). Review is possible, however, even absent an objection at trial in the exceptional case where it would appear necessary to prevent a miscarriage of justice or to preserve the integrity and reputation of the judicial process. *United States v. Segna*, 555 F.2d 226, 231 (9th Cir. 1977); *Larson, supra*; *Marshall v. United States*, 409 F.2d 925, 927 (9th Cir. 1969). In this case we perceive no such exceptional situation.

The language of § 7206(2) is plainly broader in scope than the traditional aider and abettor statute, 18 U.S.C. § 2.² It was clearly intended to encompass such cases as the one presented here. See *United States v. Wolfson*, 573 F.2d 216 (5th Cir. 1978) (where donor of yachts to university falsely and willfully inflates their value in statements to university's tax preparer, with knowledge that charitable deduction will

²Section 7206(2) provides in pertinent part:
Any person who—

...
(2) *Aid or assistance*. Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document . . .

...
shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

be taken, donor subject to prosecution under § 7206(2)); *United States v. Crum*, 529 F.2d 1380, 1382 (9th Cir. 1976) (Section 7206(2) applies to one who supplies false information which he knows will be included in the tax return even if he is not the preparer of a return or the taxpayer); *Strangway v. United States*, 312 F.2d 283 (9th Cir.), cert. denied, 373 U.S. 903 (1963); *United States v. Siegel*, 472 F.Supp. 440, 444 (N.D. Ill. 1979) (even where indictments does not name taxpayer or preparer as co-conspirators, defendant may be convicted under § 7206(2) for supplying false information which he knows will be included in tax return).³ There is therefore no occasion to consider the

³The statement in *Cosgrove v. United States*, 224 F.2d 146, 151 (9th Cir. 1954), that under 26 U.S.C. § 3793(b), a predecessor of § 7206(2), "the person who is aided [other than the taxpayer] must concur in the 'falsity or fraud,' just as every conspirator must share in the unlawful intent" is *dictum* which we need not and do not follow. *Cosgrove* held that acquittal of a conspiracy charge supported a defense of *res judicata* by a defendant who was late tried for aiding and assisting his alleged co-conspirator in the same way to further the same scheme as the government had sought but failed to prove in the earlier conspiracy trial. The court found that as the issues were actually framed in both cases, and tried in the conspiracy case, existence of the alleged agreement between the two defendants was central to both charges, and the non-existence of such an agreement therefore was necessarily adjudicated in the conspiracy trial. The court held that under the authority of *Sealfon v. United States*, 332 U.S. 575 (1948), the government was barred from attempting to prove the existence of the same agreement in a second trial charging aiding and assisting. 224 F.2d at 153-55. *Sealfon* and *Cosgrove* both rest on the basic *res judicata* principle that resolution of an issue in a first trial — the lack of an illegal agreement — precludes the consideration of that identical issue in a second trial independent of the overall similarity in the offenses charged at the two trials. *Sealfon*, 332 U.S. at 578; *Cosgrove*, 224 F.2d at 150. The *Cosgrove* court's remarks that a sharing of criminal purpose by two or more persons was an essential element of the offense under both statutes was obviously unnecessary to the holding.

application of the plain error rule to this case.

Greger contends that the evidence presented at trial was insufficient to show extortion for purposes of the Hobbs Act. Since each purveyor agreed to make the payments to him voluntarily in order to secure the Argent Corporation accounts, Greger argues that such payments constituted at most bribes, not extortion. We disagree.

The Hobbs Act defines extortion as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right." 18 U.S.C. § 1951(b)(2). Courts interpreting this language have focused on the intent of the defendant to induce payment through the use of threats or the exploitation of fears in his victim, and the reasonable state of mind of the victim based on his words, actions, and perceptions. *United States v. French*, 628 F.2d 1069 (8th Cir.), cert. denied, 449 U.S. 956 (1980); *United States v. Duhon*, 565 F.2d 345, 351 (5th Cir.), cert. denied, 435 U.S. 952 (1978); *United States v. Brecht*, 540 F.2d 45 (2d Cir. 1976), cert. denied, 429 U.S. 1123 (1977). "Fear" in this context has been held to include fear of economic loss. *French*, *supra* at 1075; *Duhon*, *supra*; *United States v. Addonizio*, 451 F.2d 49, 59 (3d Cir.), cert. denied, 405 U.S. 936 (1972); *United States v. Furey*, 491 F.Supp. 1048, 1062-63 (E.D. Pa.), aff'd, 636 F.2d 1211 (3d Cir. 1980), cert. denied, 451 U.S. 913 (1981). Viewing the evidence in a light most favorable to the government, the jury could reasonably have found extortion. *Glasser v. United States*, 315 U.S. 60, 80 (1942); *United States v. Rodriguez*, 546 F.2d 302, 306 (9th Cir. 1976).

Greger, during negotiations and throughout the period of the contract, demanded that each of the five purveyors of foodstuffs and beverages make periodic payments to him.

He was obviously aware that the Argent Corporation account was lucrative and would be anxiously sought. More importantly, once acquired, he had the exclusive power to terminate each of the five contracts, which he knew would have an inescapably adverse impact. Clearly there was sufficient evidence for the jury to conclude reasonably that Greger intended to induce payments from each of the five purveyors enumerated in the indictment, through threats or through fear of economic loss.

We correlative hold there was sufficient evidence to show each purveyor agreed to make payments, and continued to do so during the term of the contract, due to fear of economic loss if they stopped payments to Greger. Each purveyor testified that serious damage would occur to his business if the Argent Corporation contract was lost, and that Greger, they believed, had the authority to terminate their contract. Given this evidence, the jury could find that payments were made involuntarily as a result of the fear that not to do so could cause Greger to terminate their contract, substantially injuring their business. *United States v. Margiotta*, 688 F.2d 108, 133 (2d Cir. 1982), cert. denied, 103 S. Ct. 1891 (1983); *Brechit, supra*; *Furey, supra* at 1061-62.

In sum, finding no merit in Greger's contentions, we affirm the judgment of the district court.

Appendix "B"

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

**UNITED STATES OF AMERICA,
Plaintiff/Appellee, CR-R-80-47-ECR**

vs.

**VICTOR GREGER,
Defendant/Appellant.**

**ORDER ON
MANDATE**

The above-entitled cause having been before the United States Court of Appeals for the Ninth Circuit, and the Court of Appeals having on September 26, 1983, issued its mandate affirming the District Court Judgment, and the Court being fully advised in the premises,

NOW, THEREFORE, IT IS ORDERED that the mandate be spread upon the records of this Court.

IT IS FURTHER ORDERED that a hearing be held before the Court on Monday, November 14, 1983, at 5:00 o'clock p.m. so that the Court may consider the time and place for defendant's surrender to commence the period of incarceration to which he has been sentenced. Defendant and his counsel shall be present at said hearing.

DATED: October 24, 1983.

/s/ Edward C. Reed

UNITED STATES DISTRICT JUDGE

Appendix "C"

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff, CR-R-80-47-ECR

vs.

VICTOR GREGER,

ORDER

Defendant.

Pursuant to stipulation of the parties the hearing set before this Court for November 14, 1983, at 5:00 o'clock p.m. is vacated.

IT IS FURTHER ORDERED that execution of sentence of imprisonment is further stayed until 9:30 o'clock a.m. on Thursday, December 8, 1983, at which time defendant shall surrender to the institution designated by the U.S. Bureau of Prisons for defendant's incarceration pursuant to the sentence imposed by this Court on September 13, 1982.

IT IS FURTHER ORDERED that within five days from the date of this order defendant Victor Greger shall report to the U.S. Marshal's office, 300 Las Vegas Boulevard South, Las Vegas, Nevada, for completion of the necessary paper work required for direct surrender of defendant to the institution designated by the U.S. Bureau of Prisons. Upon reporting to the said Marshal's office there shall be compliance with Policy Statement of the U.S. Bureau of Prisons 7550.22, including, but not limited to, completion of Bureau of Prisons

form 73 and other documents required for the direct surrender. The requirement that defendant shall report to the U.S. Marshal's office in accordance with the foregoing order shall also be an additional condition of release for defendant, pending his surrender.

IT IS FURTHER ORDERED that the other present conditions of release are continued pending surrender and that if the defendant reports as ordered above, the bond for release filed herein shall be exonerated and the sureties released.

IT IS FURTHER ORDERED that if the defendant fails to report as ordered above, then the bond for release filed herein shall be forfeited and the Clerk shall issue a warrant for the arrest of the defendant.

Defendant is also placed on notice that in the event he fails to surrender to said institution as ordered hereinabove, or shall fail to appear at any other proceeding had herein, he may be subject to a separate prosecution by the Government for the crime of bail jumping, a violation of Title 18 U.S. Code, Section 3150. Said offense carries a maximum penalty of up to five years imprisonment and a fine of up to \$5,000.00, one or the other or both.

A copy of this Order shall be provided to the United States Marshal forthwith in order to implement the direct surrender. Also, a copy shall be provided to the United States Probation office.

Defendant shall keep in close contact with his counsel, Oscar Goodman, so that he will be advised of the place of direct surrender and that there will be no mixup in his surrendering at the place and time ordered.

The Court record shows that the defendant's address is as follows: 6441 Candlebrush Street, Las Vegas, Nevada 89107.

3c

DATED: November 9, 1983.

/s/ Edward C. Reed.

UNITED STATES DISTRICT JUDGE